

JSL

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Ronald A. Guzman	Sitting Judge If Other than Assigned Judge	
CASE NUMBER	00 C 4898	DATE	9/11/2000
CASE TITLE	MS. JEDDA K. MALIK vs. CHILDRENS WORLD LEARNING CENTER		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter memorandum opinion and order. This case is hereby dismissed without prejudice [3-1]. The petition to proceed in forma pauperis is denied as moot.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

	No notices required, advised in open court.	ED-7 FILED FOR DOCKETING 00 SEP 11 PM 2:34 Date/time received in central Clerk's Office	number of notices	Document Number <div style="font-size: 2em; font-family: cursive;">5</div>
	No notices required.		SEP 12 2000 date docketed	
	Notices mailed by judge's staff.		<i>gfr</i> docketing deputy initials	
	Notified counsel by telephone.		date mailed notice	
<input checked="" type="checkbox"/>	Docketing to mail notices.		mailing deputy initials	
	Mail AO 450 form.			
	Copy to judge/magistrate judge.			
CG		courtroom deputy's initials		

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available to her.

It is of course plain, that Malik cannot pay the \$120 filing fee immediately, for the Application lists her total savings as \$50. But there appears to be no apparent reason why Malik could not pay the fee on an installment basis. Assuming that Malik is indigent and therefore eligible to proceed in forma pauperis, we find that the complaint must be dismissed.

Amendments to the 28 U.S.C. § 1915 contained in 1996 Prison Litigation Reform Act now require the court to dismiss the case if it determines that (i) the action is frivolous or malicious, (ii) it fails to state a claim on which relief may be granted, or (iii) petitioner seeks damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). The case will be dismissed as “frivolous” if petitioner can make “no rational argument in law or fact to support her claims for relief. *Jones v. Morris*, 777 F. 2d 1277, 1279 (7th Cir. 1985)(quoting *Corgain v. Miller*, 708 F. 2d 1241, 1247 (7th Cir. 1983)).

An examination of Malik’s complaint for discrimination under the American With Disabilities Act reveals that this court has no subject matter jurisdiction pursuant to the American with Disabilities Act of 1990, 42 U.S.C. § 12101, et. seq (“Act”) and the Rules and Regulations of the DHR 56 Ill. Adm. Code Chapter II, § 2520, 460 (a). Under the Act the definition of disability requires a physical or mental impairment that substantially limits one or more of the major life activities of such individual. 42 U.S.C. § 12101(2)(A). The impairment must be a significant one to trigger the Act’s obligation. Here, even taking plaintiff’s allegations as true, that her daughter suffered from mono rather than the nasal discharge or poor sleep as reported by her daughter’s physicians. Malik still has not satisfied the definition of handicap. As the Illinois Department of Human Rights noted Malik’s transitory and insubstantial health problems do not

meet the definition of handicap under 775 ILCS 5/3-101 et. seq.. Where the court has no subject matter jurisdiction there "is no rational argument in law or fact" to support the claim for relief and the case must be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). See *Jones*, 777 F. 2d at 1279.

CONCLUSION

This case is hereby dismissed without prejudice. (# 3). The petition to proceed in forma pauperis is denied as moot.

SO ORDERED

ENTERED:

9/11/00

A handwritten signature in cursive script, appearing to read "Ronald A. Guzman", is written over a horizontal line.

HON. RONALD A. GUZMAN
United States Judge